

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**NEW BALANCE ATHLETICS, INC.,**

Plaintiff,

**V.**

**USA NEW BUNREN INTERNATIONAL  
CO. LIMITED LLC,**

**Defendant.**

**Civil Action No. 17-cv-01700-MN**

**Honorable Maryellen Noreika**

**DECLARATION OF DANIEL MCKINNON IN SUPPORT OF PLAINTIFF'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

**I, Daniel McKinnon, declare:**

1. I am over the age of 21 and I make this declaration based on personal knowledge, or knowledge obtained from employees of plaintiff New Balance Athletics, Inc. ("New Balance") in the course and scope of their employment for the company, or knowledge obtained from business records that New Balance maintains in the regular course of its business, and if I was called upon as a witness, I could testify to such facts.

2. New Balance is a private company founded in 1906. Since its earliest days, New Balance has focused on fit and authenticity as its core brand messaging. New Balance is the only major company that manufactures athletic footwear in factories located within the United States.

3. New Balance has achieved significant brand loyalty among customers in the marketplace. New Balance has designed and developed numerous well-recognized and even iconic shoe designs and models, and related apparel. New Balance has sold hundreds of millions of pairs of shoes and clothing items worldwide.

4. From 2012 to 2017, New Balance spent an average of approximately \$75 million annually on global marketing expenditures. In 2018, New Balance spent approximately \$94

million on global marketing expenditures. The vast majority of these expenditures was directed to the U.S. market. Moreover, third-party retailers consistently advertise New Balance products through prominent use of the N Marks.

5. Since 2016, New Balance has been engaged in trademark infringement litigation with Qierte in China in connection with Qierte's use of an "N" trademark that is the equivalent of those New Balance has registered and uses in the U.S. In April 2017, a court in China awarded New Balance \$500,000 in damages after ruling that a New Balance "N" trademark, equivalent to those it registered and uses in the U.S., infringed New Balance's rights in one of its equivalent N Marks that New Balance uses in China.

6. New Balance actively polices unauthorized use of its N Marks by maintaining an active enforcement program, which includes sending cease and desist letters, filing lawsuits in federal district court, and filing oppositions and cancellation petitions in the TTAB.

7. **New Balance's products, on average, retail for anywhere between \$50-\$180.**

[illegible]

Dated: May 17, 2019



Daniel McKinnon